

### REMARKS

In the April 16, 2008 Office Action, claims 9-20 and 22-26 stand rejected in view of prior art, while claims 1-8 were indicated as allowed. No other objections or rejections were made in the Office Action.

#### *Status of Claims and Amendments*

In response to the April 16, 2008 Office Action, Applicants have amended independent claims 9, 14 and 20 as indicated above. Applicants wish to thank the Examiner for the indication of allowable subject matter and the thorough examination of this application. Thus, claims 1-20 and 22-26 are pending, with claims 1, 9, 14 and 20 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

#### *Rejections - 35 U.S.C. § 103*

In the numbered paragraphs 3 to 9 of the Office Action, claims 9-20 and 22-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the prior art of record. More specifically, claims 9-12, 14, 15, 18-24 and 26 stand rejected as being obvious over U.S. Patent No. 5,361,560 to Sandolo (hereinafter "Sandolo '560 patent") in view of U.S. Patent No. 5,832,700 to Kammler et al. (hereinafter "Kammler et al. patent"). Claim 13 stands rejected as being obvious over the Sandolo '560 patent in view of the Kammler et al. patent, and further in view of U.S. Patent No. 3,655,397 to Parliament et al. (hereinafter "Parliament et al. patent"). Claim 16 stands rejected as being obvious over the Sandolo '560 patent in view of the Kammler et al. patent, and further in view of U.S. Patent No. 5,690,283 to Sandolo (hereinafter "Sandolo '283 patent"). Claims 17 and 22 stand rejected as being obvious over the Sandolo '560 patent in view of the Kammler et al. patent, and further in view of U.S. Patent No. 6,301,859 to Nakamura et al. (hereinafter "Nakamura et al. patent"). Claim 25 stands rejected as being obvious over the Sandolo '283 patent in view of the Kammler et al. patent, and further in view of U.S. Patent No. 6,953,004 to Dove et al. (hereinafter "Dove et al. patent"). In response, Applicants have amended independent claims 9, 14 and 20 as mentioned above.

Regarding independent claim 9, this claim now requires a sorting unit for sorting the flavored articles into a plurality of ranks for non-defective product **by comparing** the value indicative of the difference between the predetermined quantity of the flavoring and the

quantity of the flavoring actually added to the articles *with a plurality of threshold values calculated* based on *the quantity of articles as measured by the measurer*. Independent claim 14 requires a sorting unit for sorting the packages containing the mixture into a plurality of ranks for non-defective product *by comparing* a value indicative of an excess/deficiency amount of the additive actually supplied *with a plurality of threshold values calculated* based on the *quantity of articles as measured by the weigher*. Independent claim 20 requires sorting the packages containing the mixture into a plurality of ranks for non-defective product *by comparing* a value indicative of an excess/deficiency amount of the additive actually supplied *with a plurality of threshold values calculated* based on the *quantity of articles actually dispensed*. Applicants believe the amendments are supported at least by paragraphs [0065], [0103] and [0112] to [0125], and Figures 6E, 6F and 7 of the original disclosure of the present invention. These arrangements now recited in independent claims are *not* disclosed or suggested by the Sandolo '560 patent, the Kammler et al. patent or any other prior art of record, whether taken singularly or in combination.

Clearly, the Sandolo '560 is *absolutely silent* about *sorting* the packaged products (in this case, a flavored coffee) into a plurality ranks for non-defective product *by comparing* the value indicative of the difference between the predetermined quantity of the flavoring and the quantity of the flavoring actually added to the articles *with a plurality of threshold values calculated* based on the *quantity of articles* as now recited in independent claims 9, 14 and 20.

Moreover, the Kammler et al. patent merely discloses ejecting the filled tubular bag when the mass thereof deviates too much from the desired value (see, column 2, lines 50-53 and column 4, lines 46-50 of the Kammler et al. patent). However, similarly to the Snadolo '560 patent, the Kammler et al. patent is *absolutely silent* about *sorting* the packaged products into a plurality ranks for non-defective product *by comparing* the value indicative of the difference between the predetermined quantity of the flavoring and the quantity of the flavoring actually added to the articles *with a plurality of threshold values calculated* based on the *quantity of articles* as now recited in independent claims 9, 14 and 20.

The Office Action asserts the Kammler et al. patent discloses a sorting unit to sort the packaged product into a plurality of ranks wherein the plurality of ranks include sufficiently filled packages and insufficiently filled packages. However, the insufficiently filled packages

(i.e., the mass of which deviates too much from the desired value) is **rejected** and not shipped to consumers (column 2, lines 50-53 of the Kammler et al. patent). Therefore, it is clear from the disclosure of the Kammler et al. patent that the insufficiently filled packages are considered defective. In the illustrated embodiment of the present invention, when the product is determined to be insufficiently or overly flavored, the product is determined to be a defective product (see, step S58 in Figure 6F and the paragraph [0122] of the specification). In addition, in the illustrated embodiment of the present invention, the non-defective products are further sorted into a plurality of ranks (e.g., step S52, S54 and S56 in Figure 6F). On the other hand, the Kammler et al. patent is **absolutely silent** about sorting the non-defective products into a plurality of ranks. Accordingly, the Kammler et al. patent **fails** to disclose or suggest **sorting** the packaged products into a **plurality of ranks** for **non-defective product** as now recited in independent claims 9, 14 and 20.

Moreover, as best understood, the Kammler et al. patent only suggests using a **single** threshold value (i.e., the desired value) in order to determine whether the mass of the filled package deviates too much from the desired value. Therefore, the Kammler et al. patent is **absolutely silent** about **sorting** the packaged products **by comparing** the value indicative of the difference between the predetermined quantity of the flavoring and the quantity of the flavoring actually added to the articles **with a plurality of threshold values calculated** based on the **quantity of articles** as now recited in independent claims 9, 14 and 20.

Since **neither** the Sandolo '560 patent **nor** the Kammler et al. patent discloses or suggests an arrangement in which the flavored articles or the packages containing the mixture are sorted into a **plurality of ranks for non-defective product by comparing** the value indicative of the difference between the predetermined quantity of the flavoring and the quantity of the flavoring actually added to the articles **with a plurality of threshold values calculated** based on the **quantity of articles**, the limitations now recited in independent claims 9, 14 and 20 **cannot** be rendered obvious by the Sandolo '560 or the Kammler et al. patent, whether taken singularly or in combination.

Moreover, the other prior art of record, namely, the Parliament et al. patent, the Sandolo '283 patent, the Nakamura et al. patent, and the Dove et al. patent also **fail** to provide for the deficiencies of the Sandolo '560 patent and the Kammler et al. patent with respect to the limitations now recited in independent claims 9, 14 and 20.

It is well settled in U.S. patent law that the mere fact that the prior art can be modified does *not* make the modification obvious, unless the prior art provides an *apparent reason* for the desirability of the modification. Accordingly, the prior art of record lacks any apparent reason, suggestion or expectation of success for combining the patents to create the Applicants' unique arrangement of the weighing and flavoring system or method as now recited in independent claim 9, 14 or 20. Therefore, Applicants believe independent claims 9, 14 and 20 are allowable over the prior art of record.

Moreover, Applicants believe that dependent claims 10-13, 15-19 and 22-26 are also allowable over the prior art of record in that they depend from independent claim 9, 14 or 20, and therefore are allowable for the reasons stated above. Also, the dependent claims 10-13, 15-19 and 22-26 are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest the invention as set forth in independent claims 9, 14 and 20, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Therefore, Applicants respectfully request that the rejections be withdrawn in view of the above comments and amendments.

*Allowable Subject Matter*

In the numbered paragraph 10 of the Office Action, claims 1-8 were indicated as allowed. Applicants wish to thank the Examiner for this indication of allowable subject matter and the thorough examination of this application.

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-20 and 22-26 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

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